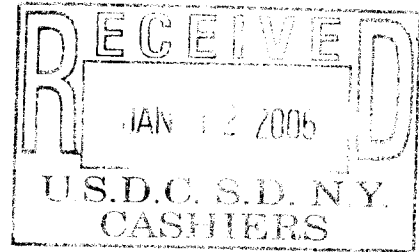


Kenneth J. Kelly (KK-4195)
 Jennifer M. Moak (JM-3173)
 Epstein Becker & Green, P.C.
 250 Park Avenue
 New York, New York 10177
 212-351-4500
 Attorneys for Defendant
 Aetna Life Insurance Company



UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

----- x
 PAUL E. SMITH,

Plaintiff,

Civ. _____

– against –

NOTICE OF REMOVAL

AETNA U.S. HEALTHCARE,

Defendant.

----- x

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
 SOUTHERN DISTRICT OF NEW YORK:

Defendant Aetna Life Insurance Company (“Aetna”) (named incorrectly by plaintiff as Aetna U.S. Healthcare) respectfully seeks to remove this action from the Civil Court of the City of New York, County of New York, Small Claims Part, to the United States District Court for the Southern District of New York. As reasons therefor, Aetna states as follows:

THE CIVIL COURT ACTION

1. Plaintiff Paul E. Smith purported to institute an action against Aetna in the Civil Court of the City of New York, County of New York, Small Claims Part (the “Civil Court Action”), entitled Paul E. Smith v. Aetna U.S. Healthcare, SCNY 5590/05-2, by preparing a Statement of Claim and having a Notice of Claim and Summons to Appear served upon Aetna’s

New York office, located at 99 Park Avenue, New York, New York 10016. A copy of the Statement of Claim and Notice of Claim and Summons to Appear is attached as Exhibit A.

2. According to the Notice of Claim and Summons to Appear, plaintiff's address is 132 East 45th Street, Apartment 8D, New York, New York 10017.

3. As set forth more fully below, plaintiff's Claim and Summons to Appear seeks recovery of the sum of \$4,950 plus interest to recover moneys arising out of non-payment of a medical insurance claim.

4. The Civil Court Action is removable from the Civil Court to this Court pursuant to 28 U.S.C. § 1441(a), because the complaint raises claims under the laws of the United States over which this Court has original jurisdiction under 28 U.S.C. §1331.

BASIS FOR REMOVAL

5. Plaintiff, a former employee of ICI Americas, Inc. ("ICI"), received health insurance from ICI by virtue of his employment with ICI. His wife, Sharon Smith, was also insured under ICI's health benefits plan, as a dependant of plaintiff.

6. ICI offered its employees, including plaintiff, the opportunity to participate in its self-funded health benefits plan. A self-funded benefits plan uses its own funds to pay for medical services rendered to its members.

7. Often a self-funded insurance plan retains the services of an administrator to process and adjudicate claims submitted under its health benefits plan. Effective January 1, 1996, ICI contracted with Aetna to provide such administrative services in connection with ICI's health benefits plan. Aetna did not provide medical insurance to ICI, or its members, including Paul Smith and his wife, Sharon Smith.

8. The plan of health benefits provided by ICI to its employees, including plaintiff, and administered by Aetna, constitutes an employee welfare benefit plan within the meaning of the Employee Retirement Income Security Act (“ERISA”) 29 U.S.C. §§ 1001, et seq.

9. Plaintiff’s complaint against Aetna alleges that Aetna failed to pay an insurance claim, and seeks reimbursement in the amount of \$4,950.

10. Because plaintiff’s claim against Aetna relates to an employee benefit plan within the meaning of ERISA, Aetna may remove the Civil Court Action to this Court pursuant to 28 U.S.C. § 1441(a).

11. ERISA provides an exclusive federal enforcement scheme for claims by plan beneficiaries and preempts state tort and contract actions. 29 U.S.C. §§ 1132 and 1144.

12. This notice has been filed within the time provided by 28 U.S.C. § 1446(b) and the Federal Rules of Civil Procedure. Aetna received the Notice of Claim and Summons to Appear, dated December 14, 2005, on or about December 27, 2005.

13. Upon the filing of this notice, Aetna will give written notice to plaintiff of the removal, and will file a copy of this notice with the Clerk of the Court, New York City Civil Court, County of New York, Small Claims Part.

WHEREFORE, Aetna Life Insurance Company respectfully requests that the Civil Court Action now pending in the Civil Court of the City of New York, County of New York, Small Claims Part, be removed to this Court.

New York, New York
January 11, 2006

EPSTEIN BECKER & GREEN, P.C.

By: 

Kenneth J. Kelly (KK-4195)

Jennifer M. Moak (JM-3173)

250 Park Avenue

New York, New York 10177-0077

(212) 351-4500

Attorneys for Defendant

Aetna Life Insurance Company

RECYCLED

CIVIL DIVISION OF THE CITY OF NEW YORK
 MARIA CLARA MARY
 34 CENTRE STREET - RM. 125
 NEW YORK, NY 10013-4880
 I hereby addressed to:
 JERRY S. BLOOM
 1000 1ST AVE
 10TH FLOOR
 NEW YORK, NY 10013-4880

2 Address Number
 7178 8518 8010 2504 1684

NOTICE TO DEFENDANT

This is the start of a lawsuit against you. It should not be ignored. Your default may have serious consequences. YOU MUST BRING THIS NOTICE WITH YOU EACH TIME YOU APPEAR IN COURT ON THIS CASE.

SUMMONS TO APPEAR

This claim is scheduled for a hearing to be held in the Courtroom:
111 Centre Street (Room 333)
New York, New York 10013
On Thursday, January 19, 2006 at 4:10 PM

You or someone authorized to represent you, must appear and present your version of the hearing. If you fail, you may remain the subject of an affidavit to represent you in your own expense. IF YOU FAIL TO APPEAR, JUDGMENT WILL BE ENTERED AGAINST YOU BY DEFAULT. EVEN THOUGH YOU MAY HAVE A VALID DEFENSE. Only the judge presiding in the hearing can grant an adjournment. The Clerk cannot grant any changes in the scheduled date or time.

DATED **December 14, 2005** **THREE-STAR JACE BARR**

CASE TYPE SMALL CLAIM
SMALL CLAIM

7123456789

PAUL SMITH
132 E. 45TH ST. APT 6D
NEW YORK CITY, NY 10017-
INDEX NUMBER
RCNY
5550/05-2
7/19
DEFENDANT
AETNA US HEALTH CARE

DEFENDANT
AETNA US HEALTH CARE
99 PARK AVENUE
NEW YORK CITY, NY 10016

A Guide to Small Claims Court is available at the court listed above

ESTA INFORMACION ESTA DISPONIBLE EN ESPAÑOL EN LA CORTE

125
2005-09-25
Power
A 3590/05-2
New benefit
case
Small claim
NYC
It is paid small
Hearing on 11/19/06

INSTRUCTIONS: Place only ONE letter or number in each space and leave a blank space between words.

CIVIL COURT OF THE CITY OF NEW YORK
SMALL CLAIMS PART
STATEMENT OF CLAIM

(Your)

I. CLAIMANT'S INFORMATION

LAST NAME	S M I T H	MIDDLE INITIAL	E
FIRST NAME	P A U L		
ADDRESS (NO PO BOX)	132 E 45TH ST	APT 8D	
CITY (Borough/Town/Village)	MANHATTAN	STATE	NY
		ZIP	10017

OTHER INFO
Doing Business As | In care Of |
Attention To | (Circle One)

PHONE NUMBER: ()

(Their)

II. DEFENDANT'S INFORMATION*

LAST NAME OR FULL NAME OF BUSINESS	A E T I N A	U S	H E A L T H	C A R E	MIDDLE INITIAL	
FIRST NAME	P A U L	A				
ADDRESS (NO PO BOX)	99 PARK AVE					
CITY (Borough/Town/Village)	MANHATTAN	STATE	NY	ZIP	10016	

OTHER INFO
Doing Business As | In care Of |
Attention To | (Circle One)

PHONE NUMBER: ()

Amount Claimed: \$ 4950.00 (Maximum \$5,000)

PRIMARY REASON FOR CLAIM (Check One):

Date of Occurrence or Transaction: 10/14/99 11/29/99 8/24/01
Place of occurrence, If Auto Accident:

- Damage caused to: ☐ automobile ☐ other personal property
- Failure to provide: ☐ proper repairs ☐ proper services
- Failure to return: ☐ security ☐ property
- Failure to pay: ☐ salary ☐ for services rendered
- Breach of: ☐ rent ☐ commissions
- Loss of: ☐ contract ☐ lease
- Returned: ☐ luggage ☐ property
- ☐ check (bounced) ☐ check (stopped) ☐ for goods sold and delivered ☐ agreement ☐ time from work ☐ use of property

OTHER REASON: Be brief. Also, if needed, place IDENTIFYING NUMBER(S) here: Receipt #, Claim #, Account #, Policy #, Ticket #, License #, Plate(s):

(FOR OFFICE USE ONLY)

STAMP: 12/14/05
JAN 19 2006
FEE: 4950.00

CERT'D #

COA CODE

CLAIM AMT

FEE

STANDARD FEE PLUS POSTAGE

☐ CLAIMANT V. DEFENDANT
☐ DEFENDANT V. THIRD PARTY

NO FEE: POSTAGE ONLY

☐ CLAIMANT V. ADD'L DEFENDANT
☐ WAGE CLAIM TO \$300

LANGUAGE

DATE DATA ENTERED

DATE NOTICES MAILED

CASE TYPE

MULTI DEF ☐ CTR/CLM ☐

3 PARTY ☐ CRS/CMPLT ☐

FIRST DATE

DAY COURT

STATUTORY ☐ OTHER

*DEFENDANT'S NAME: The legal name will be required in order to obtain an enforceable judgment. If the Defendant is a business, its full and correct business name should be obtained from the Office of the County Clerk in the county in which the business is located or check on the following website: www.dos.state.ny.us DEFENDANT'S ADDRESS: You must indicate the proper street address of the Defendant. A Post Office Box is not acceptable.
NOTE: If the Claim is a result of an automobile accident, the Claim must be OWNER against OWNER.

Today's Date

Signature of Claimant or Agent

DEC 14 2005

Paul Smith